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ABSTRACT

This monograph examines issues associated with the problems of children and youth with disabilities in the justice system. Following an introductory chapter, chapter 2 focuses on prevention, including systemic prevention strategies, challenges to successful prevention, model programs that address prevention, and recommended prevention practices. Chapter 3 considers the educational services for youth in juvenile correctional facilities including academic programs, special education services, challenges to delivering special education in correctional facilities, and recommended special education practices. The importance of transition planning when youths transfer into and out of either short-term or long-term correctional facilities is stressed in the following chapter, which also provides recommended transition practices. Finally, chapter 5 discusses the importance of family involvement and advocacy, including families' perceptions of the justice system, families' perceptions of professionals, and recommended advocacy practices. (Contains 28 references.) (DB)

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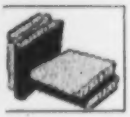

From the Fourth CCBD Mini-Library Series: Addressing the Diverse Needs of Children and Youth with Emotional/Behavioral Disorders: Programs That Work

Education, Disability, and Juvenile Justice

Recommended Practices

Robert B. Rutherford, Jr.
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Lyndal M. Bullock & Robert A. Gable, *Series Editors*

The Council for Children with Behavioral Disorders, *Publisher*

About the Council for Children with Behavioral Disorders

Council for Children with Behavioral Disorders

CCBD is an international and professional organization committed to promoting and facilitating the education and general welfare of children and youth with behavioral and emotional disorders. CCBD, whose members include educators, parents, mental health personnel, and a variety of other professionals, actively pursues quality educational services and program alternatives for persons with behavioral disorders, advocates for the needs of such children and youth, emphasizes research and professional growth as vehicles for better understanding behavioral disorders, and provides professional support for persons who are involved with and serve children and youth with behavioral disorders.

In advocating for the professionals in the field of behavioral disorders, CCBD (a division of The Council for Exceptional Children) endorses the Standards for Professional Practice and Code of Ethics adopted by the Delegate Assembly of The Council for Exceptional Children in 1983.

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Foreword

In schools across the country, we are witnessing significant demographic changes in the student population. Data show that there is an increasing number of students from culturally and linguistically diverse backgrounds in both general and special education. The long-standing debate over what is special about special education has been rekindled as school personnel struggle to ensure that a heterogeneous population of students receives high-quality instruction. The challenges are many and varied. Concerns about misidentification may have surpassed those of underidentification—especially when we simultaneously look at the numbers that relate to diversity and disability. Diversity is an issue not only in regard to overrepresentation and underrepresentation of students in various disability groups, but also in regard to the delivery of high-quality instruction. There are those who would argue that a limited body of empirical research poorly informs current teacher preparation and classroom practices. Others assert that students who are variously labeled as *emotionally disturbed, behaviorally handicapped,* or *emotionally or behaviorally disordered* are especially susceptible to inappropriate placement and ineffective practices. It is difficult to refute these assertions.

Most education professionals recognize that we must view these challenges as opportunities as well. We must forthrightly address the complex issues surrounding cultural competency, parent involvement in education, high-quality academic and nonacademic intervention, and the judicious use of emergent technology. We also recognize that we cannot afford to ignore the special challenges of serving students with emotional or behavioral disorders placed in

interim alternative educational settings or correctional facilities. Rapidly changing social, philosophical, political, and economic forces compel us to examine current policies and practices critically and to repudiate any that do not serve all our students well.

The following books comprise the Fourth CCBD Mini-Library Series: Addressing the Diverse Needs of Children and Youth with Emotional/Behavioral Disorders: Programs That Work, which derived from the 2001 international conference sponsored by the Council for Children with Behavioral Disorders:

- *Addressing the Issue of Disproportionate Representation: Identification and Assessment of Culturally Diverse Students with Emotional or Behavioral Disorders* by Festus Obiakor, Bob Algozzine, Martha Thurlow, Nomsa Gwalla-Ogisi, Stephen Enwefa, Regina Enwefa, and Angela McIntosh
- *The Challenges of Gangs and Youth Violence in the Schools* by Sharon H. Grant and Richard Van Acker
- *Culturally and Linguistically Diverse Learners with Behavioral Disorders* by Gwendolyn Cartledge, Kai Yung (Brian) Tam, Scott A. Loe, Antoinette H. Miranda, Michael Charles Lambert, Cathy D. Kea, and Evette Simmons-Reed
- *Dealing with Behaviors Perceived as Unacceptable in Schools: The Interim Alternative Educational Setting Solution* by Reece L. Peterson and Carl R. Smith
- *Education, Disability, and Juvenile Justice: Recommended Practices* by Robert B. Rutherford, Mary Magee Quinn, Peter E. Leone, Lili Garfinkle, and C. Michael Nelson
- *Integrating Technology in Program Development for Children and Youth with Emotional or Behavioral Disorders,* edited by Lynn K. Wilder and Sharon Black
- *Strategies and Procedures for Designing Proactive Interventions with a Culturally Diverse Population of Students with Emotional or Behavioral Disorders and Their Families/Caregivers* by Gloria D. Campbell-Whatley and Ralph Gardener, III

As series editors, we solicited members of the Council for Children with Behavioral Disorders from across the country to share their thoughts on a range of critical issues regarding students with emotional or behavioral disorders. We are indebted to our colleagues who have so generously given both their time and expertise to making this mini-library possible. We trust that their efforts will contribute to your success and the success of the students with whom you work.

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We would like to acknowledge the important contribution of the staff of the National Center on Education, Disability, and Juvenile Justice. Over the past 2 years, Sheri Meisel, Will Drakeford, and Joe Gagnon at the University of Maryland; Terry Scott and Carl Liaupsin at the University of Kentucky; Bruce Wolford and Tammy Cole at East Kentucky University; Sarup Mathur, Heather Griller-Clark, and Megan McGlynn at Arizona State University; and Georgeann Rooney and Jeffrey Poirier at the American Institutes for Research in Washington, DC, have worked with us to identify recommended practices for serving youths with disabilities in the justice system. This team has been guided and inspired by our project officers, Renée Bradley at the Office of Special Education Programs in the U.S. Department of Education and Eric Peterson at the Office of Juvenile Justice and Delinquency Prevention in the U.S. Department of Justice. We would especially like to thank Jeffrey Poirier for his contribution to the Prevention of Delinquency section in this monograph.

1 Introduction

During the 1997–1998 school year, nearly 6 million children and youths between the ages of 3 and 21 in the United States were served under the Individuals with Disabilities Education Act (IDEA). This figure indicates that about 8% of the school-aged population has some type of disability that requires special education services (U.S. Department of Education, 1999). Estimates of the prevalence rates of disabilities in children and youths who are involved in the juvenile or adult correctional system, however, are much higher. Bullock and McArthur (1994) estimated the prevalence rate of disabilities in correctional facilities to be as much as 4 to 5 times greater than that of the general school-aged population. Other researchers (Lewis, Schwartz, & Ianacone, 1988; Murphy, 1986; Rutherford, Nelson, & Wolford, 1985) have estimated the prevalence of youths with disabilities in correctional facilities to be between 20% and 60%. While these figures are somewhat dated, annual census data indicate a significant increase in the number of children and youths receiving special education services over the last decade (U.S. Department of Education, 1998). Therefore, it is reasonable to expect that the number of youths with disabilities in the justice system has increased proportionally. Clearly, there is an overrepresentation of children and youths with significant learning and/or behavioral problems that entitle them to special education services in the justice system. Specific learning disabilities, emotional disturbance, and mental retardation are the most common disabilities among children and youths in the justice system (Rutherford, Bullis, Anderson, & Griller-Clark, in press).

The issues surrounding the overrepresentation of children and youths with disabilities in the justice system are numerous and

complex. Three theories have been posed to explain this phenomenon (Keilitz & Dunivant, 1986; Leone & Meisel, 1997). The *school failure theory* postulates that because of the academic failure, poor self-concept, and higher rates of school drop-out associated with cognitive or behavioral problems, students with disabilities have more opportunity to associate with delinquent peers, which leads to the development of delinquent patterns of behavior. The *differential susceptibility theory* holds that certain disability-related characteristics (e.g., cognitive deficits, immaturity, impulsivity) predispose children and youths with disabilities to engage in delinquent behavior. Finally, the *differential treatment theory* suggests that children and youths with disabilities receive different treatment than their nondisabled peers in the justice and education system due to their communication, social, or cognitive skill deficits. Because of these deficits, the actions of students with disabilities are often misinterpreted as hostile, noncooperative, and inappropriate. For these reasons, children with disabilities receive harsher sentences and are placed in disciplinary segregation in correctional facilities at higher rates than their nondisabled peers (Santamour, 1987).

The federal government has responded to the need to educate youths with disabilities in the justice system by funding the National Center on Education, Disability, and Juvenile Justice (EDJJ). Two federal agencies, the Office of Special Education Programs at the U.S. Department of Education and the Office of Juvenile Justice and Delinquency Prevention at the U.S. Department of Justice, have led this effort. EDJJ is a collaborative research, training, technical assistance, and dissemination initiative whose mission is to understand and develop more effective responses for youths with disabilities involved in or at risk for involvement in the juvenile justice system.

This monograph was written by EDJJ staff and represents our approach to addressing problems of children and youths with disabilities in the justice system. We have divided the remainder of the monograph into four major sections. In Chapter 2 we focus on prevention and what specifically can be done to prevent children and youths who are at risk for delinquency from becoming involved in

the justice system. In Chapter 3, we discuss the education of children and youths with disabilities once they are in the justice system and describe what we believe are best practices for providing special education services to these students. In Chapter 4 we discuss the importance of transition planning when youths transfer into and out of short- and long-term correctional facilities. Finally, in Chapter 5, we discuss the importance of family involvement and advocacy and what should be done to best represent the needs of children and youths with disabilities in the justice system.

2 Prevention of Delinquency

A large number of youths report having committed delinquent acts at some time. Of these, a small fraction become involved with the juvenile justice system and subsequently are placed at an elevated risk of life-long failure (Zimring, 1998). These youths represent a unique population—one that needs particular attention and specialized prevention services to break the cycle of failure.

An understanding of the factors that place youths at risk for school failure and antisocial behavior can contribute to more effective prevention strategies. A disproportionate number of children from economic, cultural, and ethnic minority backgrounds experience school failure, which may in part be due to the fact that their cultures, neighborhoods, and backgrounds are much different from those of the teachers and administrators they interact with in school. Another risk factor associated with academic and behavioral problems is that many youths who are from economically disadvantaged and racial or ethnic minorities attend schools that lack sufficient resources to provide high-quality education services. One of the best predictors of ongoing serious problem behavior and school failure is the student's prior history of academic and social problems at school.

Systemic Prevention Strategies

Exclusionary practices and punitive reactions traditionally have been ineffective and counterproductive in decreasing problem

behavior (Hyman & Perone, 1998). In contrast, less widely practiced systemic prevention strategies and effective instruction have proven successful in decreasing problem behavior (Sugai et al., 1999; Walker et al., 1996). In addition, researchers have identified four school-based factors that are essential in any effort to facilitate success with youths who are at risk. Those factors are as follows: (a) Schools must have a clear academic mission; (b) schools must create an orderly environment; (c) schools must engage students in academics to a high degree; and (d) schools must monitor student progress on a regular basis.

As a process of intervention, prevention is designed to alter the circumstances associated with problem behaviors. Effective prevention practices decrease problem behaviors and the subsequent difficulties youths encounter in their schools and communities. Most prevention efforts begin in schools because it is there that professionals have the greatest, and typically the earliest, access to children. As youths first evidence academic or behavioral problems, increasingly intensive interventions can be applied in the school setting to produce positive outcomes.

One example of a systemic prevention strategy is a system of positive behavior supports (PBS). PBS is a model that enables professionals to address individual students' needs while providing prevention services to youths who have engaged in delinquent behavior as well as those who are at risk of engaging in such behavior. Without regard to special education eligibility or needs, a PBS model can be applied across all students as a means of preventing the most predictable problems, providing early intervention to those who continue to fail, and organizing intensive services and supports for those whose needs are greatest. The systemic interventions of the PBS model are designed to maximize the likelihood of success across all students. The success of a PBS model is greatly enhanced if the three levels of preventive support (i.e., primary, secondary, and tertiary) are in place. Each of these three levels of prevention is applicable to juvenile offenders but is most effective when initiated while students are in school settings.

Primary Prevention

Primary prevention consists of strategies—including school-wide and facility-wide discipline and instructional interventions—that are intended to prevent or diminish the likelihood of an initial juvenile offense. Such practices cut across all settings and placements to reach both identified and "hidden" offenders, thus targeting the greatest range of students possible. Primary prevention efforts call for databased changes to physical environments and school-wide or facility-wide routines that benefit this broad range of students.

The success of both secondary and tertiary prevention, which follow this first level of intervention, is contingent upon successful primary prevention. More specifically, primary prevention provides the instructional prompts for the acquisition and generalization of successful behaviors in natural environments that should be in place before secondary and tertiary prevention strategies can be considered. Research has shown that universal prevention systems are effective for 90% of the student population (Scott et al., in press). Students who do not respond when provided with universal supports require the next level of intervention.

Secondary Prevention

Secondary prevention, composed of strategies designed to prevent re-offending, involves two steps. First, system-wide data collected as a primary prevention practice are used to identify students who fail to meet behavioral expectations, regardless of their setting or placement. Students who evidence failure by exceeding a minimum criteria (e.g., more than three office referrals or behavior reports) are targeted for more individualized assessment and intervention so that intervention is undertaken proactively *before* a history of problem behaviors and failures can develop. Second, the early identification of individual student problems allows the system to further examine the larger environment and how it might play a role in repeated or serious behavioral problems. Such information may facilitate grouping of students to make the best use of school or facility intervention resources while providing services identified as

necessary to prevent further failures. For example, secondary prevention strategies may include identifying a group of school personnel to take responsibility for assisting in the development of targeted interventions. Individualized (targeted) secondary prevention systems focus on student behaviors for which primary intervention has not been effective (as demonstrated by such data as office discipline referrals). When used appropriately and consistently, secondary prevention systems are effective for 7% to 9% of students (Scott et al., in press). Students who are not successful with this level of support will require the next level of intervention.

Tertiary Prevention

Tertiary prevention consists of strategies to reduce the impact of a condition on the individual; it is implemented when students exhibit continued failures despite both primary and secondary interventions. The goal of this level is to ameliorate the effects of persistent re-offending by identifying students who are receiving services outside of the school and coordinating those services (since persistently re-offending students are likely to be receiving services from one or more outside agencies). Tertiary prevention efforts encourage the inclusion of community and family in establishing common goals. This involvement is crucial to the successful transition of students between settings. Intensive prevention systems will be needed for 1% to 3% of students (Scott et al., in press).

Challenges to Successful Prevention

In addition to the disproportionate number youths from minority backgrounds involved with the juvenile justice system, juvenile offenders are disproportionately more likely than their nondelinquent peers to be eligible for special education services. Unfortunately, institutionalized obstacles may prevent eligible juvenile offenders from receiving the special education services required under IDEA because federal law and regulations frequently conflict with the realities of juvenile facilities. Correctional facility personnel often are not aware of the requirements mandated by

IDEA and other applicable legislation. The focus of correctional facilities is rehabilitation and punishment, which takes precedence over the educational needs of a child.

Model Programs That Address Prevention

In 1996 the Center for the Study and Prevention of Violence (CSPV) initiated a project to identify outstanding violence prevention programs and to describe these interventions in a series of so-called blueprints. These blueprints provide practical descriptions of effective programs, realistic cost estimates for the interventions, assessments of the capacity needed to ensure success, and potential barriers and obstacles to implementing the interventions (Center for the Study and Prevention of Violence, 2001). The CSVP identified 10 violence prevention programs out of 450 that most closely met its scientific standard of program effectiveness through research design, prevention effects, replication, and sustained effects. In general, these programs involve the collaborative multiagency, multifaceted approaches that previously have been identified as best practice (Walker, Zeller, & Close, 1999). The 10 programs are described below.

- *Multisystemic Therapy (MST)* is an intensive family- and community-based treatment that addresses the multiple determinants of serious antisocial behavior in juvenile offenders. The multisystemic approach views individuals as being nested within a complex network of interconnected systems that encompass individual, family, and extrafamilial (i.e., peer, school, neighborhood) factors. Intervention may be necessary in any one or a combination of these systems.
- The *Midwestern Prevention Project (MPP)* is a comprehensive, community-based, multifaceted program for adolescent drug abuse prevention. The MPP involves an extended period of programming. Although initiated in a school setting, it goes beyond this setting into the family and community contexts.

- *Big Brothers Big Sisters of America (BBBSA)* has been providing adult support and friendship to youths for nearly a century. A report in 1991 demonstrates that through BBBSA's network of nearly 500 agencies across the country, more than 70,000 youths and adults were supervised in one-to-one relationships.
- *Multidimensional Treatment Foster Care (MTFC)* is a cost-effective alternative to group or residential treatment, incarceration, and hospitalization for adolescents who have problems with chronic antisocial behavior, emotional disturbance, and delinquency. Community families are recruited, trained, and closely supervised to provide MTFC-placed adolescents with treatment and intensive supervision at home, in school, and in the community; clear and consistent limits with follow-through on consequences; positive reinforcement for appropriate behavior; a relationship with a mentoring adult; and separation from delinquent peers.
- The *Bullying Prevention Program* is a universal intervention for the reduction and prevention of bully/victim problems. The main arena for the program is the school, and school staff have the primary responsibility for the introduction and implementation of the program.
- The *PATHS (Promoting Alternative THinking Strategies)* Curriculum is a comprehensive program for promoting emotional and social competencies and reducing aggression and behavior problems in elementary school-aged children while simultaneously enhancing the educational process in the classroom. This innovative curriculum is designed for use by educators and counselors in a multiyear, universal prevention model. Although it primarily focuses on the school and classroom settings, information and activities are also included for use with parents.
- *Prenatal and Infancy Home Visitation by Nurses,* guided by a strong theoretical orientation, consists of intensive and comprehensive home visitation by nurses during a woman's pregnancy and the first 2 years after the birth of the woman's first child.

While the primary mode of service delivery is home visitation, the program relies on a variety of other health and human services to achieve its positive effects.

- The *Life Skills Training (LST)* program dramatically reduces tobacco, alcohol, and marijuana use. Studies show that the program works with a diverse range of adolescents, produces results that are long lasting, and is effective when taught by teachers, peer leaders, or health professionals.
- The *Quantum Opportunities Program (QOP)* is a youth development program designed to serve disadvantaged adolescents by providing education, service, and development activities, as well as financial incentives, over a 4-year period, from ninth grade through high school graduation.
- *Functional Family Therapy (FFT)* is an outcome-driven prevention/intervention program for youths who demonstrate the entire range of maladaptive, acting-out behaviors and related syndromes.

A more detailed description of these programs is available online at: http://www.colorado.edu/cspv/blueprints/model/Default.htm

Recommended Prevention Practices

The following systemic strategies are recommended for use at the primary, secondary, and tertiary levels of prevention:

Primary

- Evaluating the school environment to determine when, where, and in what contexts problems are more likely to occur.
- Creating strategies to prevent problems identified by school faculty and staff.
- Teaching all students rules and routines that will support and encourage desired behavior.

- Regarding inappropriate social behaviors as errors and responding to these with appropriate correction and reteaching procedures.
- Establishing behavior support teams to monitor the effectiveness of prevention strategies.
- Monitoring and evaluating student progress on a formative basis.
- Using databased decision rules to identify those students whose academic or social performance indicates that they are at risk for school failure.

Secondary

- Developing individualized behavior intervention plans and other behavior intervention strategies.
- Ensuring that all adults in the school understand what skills these students are learning so that all settings foster academic and social success.
- Establishing behavior support teams to develop behavior intervention plans, monitor student progress, and modify intervention plans as necessary.
- Including effective instructional strategies, functional replacement training, counseling, and classroom supports in behavior intervention plans.

Tertiary

- Coordinating input and services from the home, community, and school to develop intervention plans that encompass multiple life domains (i.e., wraparound planning).
- Making placement decisions from a continuum of alternatives and selecting the least restrictive environment in which the student can reasonably be expected to succeed.

- Incorporating effective instruction, functional behavior replacement training, counseling, and classroom supports into school-based interventions.
- Monitoring student progress continuously and adjusting intervention strategies on the basis of data decision rules.

3

Education Services in Juvenile Correctional Facilities

Education is the "foundation for programming in most juvenile institutions" (Parent et al., 1994, p. 129) because it is fundamental to the rehabilitation of troubled youths. Helping youths acquire educational skills is also one of the most effective approaches to the prevention of delinquency and reduction of recidivism. Literacy skills—the tools that enable individuals to read, write, and speak clearly and process information—are essential to meet the demands of an increasingly technological world in school, in communities, and on the job. Higher levels of literacy are associated with lower rates of juvenile delinquency, rearrest, and recidivism. While poor academic performance does not directly cause delinquency, empirical studies consistently demonstrate a strong link between marginal literacy and the likelihood of involvement in the juvenile justice system (Center on Crime, Communities, and Culture, 1997).

The quality of education services available for youths with disabilities in juvenile corrections facilities is highly variable and depend-

ent upon the agency providing those services. Education programs for incarcerated youths are operated by local school systems, juvenile justice agencies, private contractors, and state departments of education (Wolford, 2000). The resources and administrative structures available to support correctional education programs are typically less predictable and less adequate than those available for public school programs.

The majority of youths entering correctional facilities have a range of intense educational needs that are often compounded by mental health, medical, and social concerns. Large numbers of incarcerated juveniles are marginally literate or illiterate and have experienced school failure (Center on Crime, Communities, and Culture, 1997). These youths are also disproportionately male and poor, have significant learning and/or behavioral problems, and are members of minority groups. Many incarcerated youths have been retained in grade, have been enrolled in special education programs in the public schools, and have been truant prior to their incarceration.

Academic Programs in Juvenile Corrections Facilities

While the majority of detained and committed youths have severe to moderate skill deficits and prior school experiences marked by failure, truancy, and exclusion, others may be performing at or above grade level. Academic programs for incarcerated youths need to accommodate a wide range of abilities and provide students with the opportunity to earn credits that will transfer to other schools after leaving juvenile corrections facilities. Programs also need to provide differentiated instruction for students in short-term and long-term facilities, meet the special education needs of students with disabling conditions, provide prevocational or vocational instruction, and prepare students for exams such as the Scholastic Aptitude Test (SAT), or diplomas such as the General Educational Development (GED), or for postsecondary education or training.

Jails, Detention Centers, and Other Short-Term Facilities

Although the average length of stay in juvenile correctional facilities is 8 months (Parent et al., 1994), many youths are confined in jails, detention centers, and other short-term facilities where their stay may range from several days to many months (Bolson, Quinn, & Nelson, in press). Effective education programs in short-term facilities should focus on literacy, life skills instruction, and an extensive diagnostic system for educational; vocational; and social, emotional, and behavioral assessment. With regard to literacy, educators in detention centers and jails need to use a range of materials and strategies to ensure that all youths in their charge have successful experiences in the classroom. For example, newspapers, driver education manuals, and popular magazines all contain information that most adolescents find interesting. Similarly, life skills instruction centered on topics such as alcohol and other drug use, sexually transmitted diseases, legal rights and responsibilities, and career exploration can provide content for stimulating presentations and discussions in a detention center classroom.

In detention centers and jails, where the length of stay is highly variable and student turnover is high, a short-term curriculum based on literacy, life skills, and comprehensive assessment can be structured to permit students with a wide range of ability levels to receive high-quality educational services. Teachers can break activities into units that may last a day or two and that provide the opportunity for students at differing achievement levels to experience success. The education program in a short-term facility can also provide a positive school experience for youths who may have very negative feelings about formal education and teachers.

While this short-term curriculum is appropriate for the majority of youths in detention centers and jails, more comprehensive programming must be available to those who stay in these facilities for extended periods of time. Many of the aspects of educational programming that we identify below for training schools and other

long-term facilities must be provided for youths who spend months or occasionally years in these facilities.

Training Schools and Other Long-Term Facilities

In contrast to programs in short-term facilities, education programs in training schools or long-term facilities need to offer a range of programs and options. At a minimum, correctional education programs in long-term facilities need to provide the following:

- Literacy and functional skills instruction for students with significant cognitive, behavioral, or learning problems.
- Special education services and supports.
- Academic courses associated with Carnegie units (or units of instruction that meet state standards) for students who are likely to return to public schools or who may earn a diploma while incarcerated.
- GED preparation and testing for students who are not likely to return to public schools.
- Prevocational and vocational education related to student interests and meaningful employment opportunities in the community.

Special Education in Juvenile Corrections Facilities

Although incarcerated youths who are eligible for special education services are entitled to the same substantive and procedural rights afforded to students in public schools, correctional facilities have been slow to respond to the requirements of IDEA, the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, and other applicable laws (Leone, Rutherford, & Nelson, 1991). In the 25 years since the passage of IDEA (P.L. 94-142), the predominant concern in public schools has shifted from providing access to special education services to ensuring quality outcomes for youths with

disabilities. In contrast, providing basic access to adequate special education services continues to be a problem in many juvenile correctional facilities (Leone & Meisel, 1997).

Among other things, providing adequate special education services in juvenile correctional facilities involves:

- Establishing procedures to screen, assess, and identify youth who are potentially eligible for services.
- Obtaining records from schools students previously attended.
- Developing and implementing individualized education programs (IEPs).
- Involving parents, guardians, or surrogate parents in the assessment and IEP development process.
- Ensuring that students are educated in the least restrictive environment.
- Developing appropriate transition plans and mechanisms to ensure a successful return of incarcerated youths to local communities.

Notwithstanding the challenges, effective special education programs have been developed in juvenile correctional facilities. The most significant barriers to appropriate services are often conceptual. When educators, parents, or advocates experience difficulty in providing or obtaining special education services for incarcerated youths, it is often because staff or administrators believe this cannot be done in a correctional setting. Youths with disabilities who do not receive appropriate special education and related services may be more vulnerable to exclusion from school for alleged disciplinary infractions in the correctional education program and within the larger institution. When education programs in juvenile corrections fail to adequately educate youths with disabilities and fail to implement appropriate instructional strategies, they increase the likelihood that these youths will continue to experience trouble in the community after release.

Challenges to Delivering Special Education in Correctional Facilities

Some juvenile correctional facilities have limited capacity to support appropriate educational services. Limited capacity can include inadequate classroom space either because facilities were originally built without classrooms or because of overcrowding. When students are forced to attend academic classes in dayrooms, dining halls, or visiting areas, the number of distractions and the lack of support for instruction seriously compromise the quality of the services provided. Other impediments to the operation of correctional education programs are inadequate funding, lack of administrative support, isolation of correctional school programs, poorly developed links between correctional and public schools, and lack of transition and aftercare services. High-quality education programs also require collaboration among school, security, and treatment programs within juvenile correctional facilities.

Recommended Special Education Practices

The following practices are recommended for providing students in long-term juvenile correctional facilities with high-quality special education services:

- Providing all students with disabilities with educational services similar in quantity and quality to those available to students in public school programs.
- Providing all students with disabilities with a free, appropriate public education, including special education and related services.
- Providing educational services to all students (especially those who are eligible for special education) who have not graduated from high school or who have not obtained a GED, regardless of their classification or housing.

- Obtaining records from all students' previous public schools or detention centers within 5 days of admission.
- Transferring students' records within 5 days from the correctional education program to the first public or private school in which they enroll after being released.
- Making available sufficient qualified personnel to provide educational services to all eligible students.
- Identifying, locating, and evaluating all students in need of special education and related services within prescribed timelines.
- Training all educational personnel in the identification and referral of students with disabilities.
- Providing appropriate screening materials to intake and educational staff members.
- Ensuring that tests used for the placement of students in programs have been validated for the specific purposes for which they are used.
- Assigning trained personnel to administer assessment instruments in conformance with test instructions and purposes.
- Ensuring that students identified as being potentially disabled receive a full and complete assessment by an appropriate evaluation team that includes specialists in the areas of the student's suspected disabilities.
- Forwarding a proposed assessment plan to the student's parent, guardian, or surrogate parent within 15 days of referral to special education.
- Holding IEP meetings within 5 to 10 days of entry to the correctional education program.
- Developing or amending IEPs for students with disabilities in the correctional education program. Thus, IEPs contain (a) a statement of the student's present level of educational performance; (b) specific short-term instructional objectives that are measurable and within the student's capabilities; (c) a transition plan; (d) a statement of the special education and related

services to be provided; (e) a statement of the extent to which the student will be able to participate in the general education program; (f) projected dates for the initiation and duration of services; and (g) appropriate objective criteria and schedules for determining, on at least an annual basis, whether short-term instructional objectives are being achieved.

- Providing students with classroom instruction in the amount and type specified in their IEPs.
- Ensuring that sufficient and appropriate educational resources are available to deliver special education services to accomplish students' IEP goals.
- Having IEP goals and short-term objectives reviewed regularly by school staff to determine whether they are being met, whether specified services are being provided, and whether modifications are necessary.
- For all students who do not have a parent or guardian, recruiting, training, and appointing surrogate parents (who are not employees of the correctional facility) to represent them at IEP meetings or to assist them in educational planning.
- Employing adequate numbers of staff who meet full state certification requirements in the area in which they provide services to provide special education and related services.
- Providing the full continuum of special education services for students with disabilities in the correctional education program.

4 Transition in the Juvenile Justice System

As students with disabilities leave short-term jails and detention facilities or long-term juvenile and adult correctional facilities, they need support to make the transition to school, work, and community and to keep them from re-offending and returning to incarceration (Rutherford, Griller-Clark, & Anderson, 2001). On the one hand, *transition* for youths with disabilities in correctional facilities refers to a coordinated set of activities that are designed to promote movement from school to postschool activities. However, the term also refers to the passage of a student from the community (i.e., home, school, or work) to a correctional setting and back to the community again. In addition, it can refer to the passage of a student from one correctional setting to another.

When developing transition plans for students with disabilities in the juvenile (and adult) justice system, we must consider not only the various definitions of transition, but also the additional services and skills needed for youths to be successful in the community. According to IDEA, *transition* is defined as a coordinated set of activities for a student, designed as an outcome-oriented process, which promotes successful movement from school to postschool activities. These postschool activities include postsecondary education, vocational instruction, integrated employment, continuing education, adult services, and independent living or community par-

ticipation. These activities must be based upon the individual student's needs, preferences, and interests and include instruction, community experiences, postschool adult living objectives, and, if appropriate, the acquisition of daily living skills.

Although many of the requirements may be the same, transition from a correctional facility to the community needs to include additional supports. A transition plan for an incarcerated youth should include all of the IDEA requirements along with additional recommended practices (see below) designed to facilitate the youth's transition back into the community. These transition practices help youths achieve social adjustment, employment, and educational success once they reenter society. To provide appropriate services to adjudicated youths, assistance must be available to service providers in correctional facilities and in the community and to youths during the transition process.

Challenges to Successful Transition

Transition is the most often ignored component of correctional education programs (Webb, Maddox, & Edgar, 1991). Transition experiences and outcomes of youths with disabilities are often disheartening. Although transition planning and services should be part of the student's IEP, many correctional and community agencies grapple with how to implement effective transition services. Many juveniles released from correctional settings do not receive adequate vocational and educational training and other supports necessary to succeed in the community.

Several obstacles can interfere with the provision of effective transition services in the juvenile (and adult) justice system:

- Lack of transition planning before release.
- Inadequate professional development and specialized transition training for service providers (i.e., teachers, counselors, youth workers, social workers, parole officers).
- A significant lack of communication, coordination, and commitment among agencies that serve at-risk and delinquent youths.

- Delays in transition planning in short-term and long-term correctional facilities due to difficulty in obtaining previous educational records.
- Lack of family involvement—one of the greatest challenges to the success of transition.

Short-Term Jails and Detention Centers

Short-term correctional facilities include jails and detention centers, where the length of confinement ranges from several days to several months. These facilities confine youths waiting for preliminary and dispositional hearings and occasionally those ordered to spend brief periods of time in custody. While the mobility of youths in short-term facilities makes comprehensive educational programming difficult, emphasis should be placed on preparing them for the next stage of their educational process (Bolson et al., in press). Due to the relatively short period of time that most juveniles spend in jails and detention centers, our recommended transition practices focus on making a quick and significant impact on a youth's successful transfer to other correctional or community programs and services. The most important function that an educational program in a short-term facility can provide is to collect a student's prior school records, including the IEP; conduct a comprehensive assessment of the student's current educational, vocational, social/emotional, and behavioral abilities; and compile a portfolio of these records, assessment data, and samples of the student's work. The portfolio can then accompany the youth to the receiving school, agency, or correctional facility.

Recommended Transition Practices for Short-Term Facilities

The following practices are recommended for facilitating juveniles' transition from short-term correctional facilities to long-term facilities or community services:

- Staff awareness of and familiarity with county, state, local, and private programs that receive and/or send juveniles to or from jails and detention centers.
- The immediate transfer of youths' educational records from public and private educational programs to jails and detention centers.
- A process for the immediate identification, evaluation, and placement of youths with disabilities.
- An extensive diagnostic system for educational, vocational, social/emotional, and behavioral assessment.
- Modification or development of an IEP for each student with disabilities that includes a transition plan.
- Development of a transition plan with *all* students that identifies the students' educational and vocational interests, abilities, and preferences.
- Student access to a resource center or library that contains a variety of materials related to transition and support services.
- To the extent possible, individualized preplacement planning by all teachers or a specified transition coordinator prior to the transfer of youths from jails or detention centers to the community or long-term correctional facilities.
- Special funds earmarked for transition and support services.
- Regularly held interagency meetings, cooperative inservice training activities, and crossover correctional and community school visits to ensure staff awareness of youth and agency transition needs.
- The immediate transfer of youths' educational portfolios from jails and detention centers to community schools, long-term correctional facilities, or other programs.
- Coordination with probation to ensure a continuum of services, care, and monitoring in the community.

- Coordination with public and private educational program personnel to ensure that they advocate for these youths, cultivate family involvement, maintain communications with other agencies, and place students in classes with supportive teachers.
- The existence of a system for periodic evaluations of the transition program and all of its components.

Long-Term Juvenile and Adult Correctional Facilities

In contrast to jails and detention centers, youths are confined to juvenile and adult correctional facilities for longer periods of time. While sentencing juveniles to adult prisons is a relatively recent phenomenon, both types of facilities generally offer educational programs that are modeled, for the most part, on secondary school programs. Vocational instruction is an important component of the curriculum in many facilities, and remedial coursework in reading and computational skills is typically provided. Many of these educational programs are designed to assist students in obtaining high school credits, a diploma, or the GED. While federal law mandates providing special education services to youths with disabilities, these services have often been limited in juvenile and adult correctional facilities.

The weakest component of correctional special education in long-term facilities is the provision of comprehensive prerelease transition planning and postrelease transition support. The most important function of an educational program in a long-term facility is to design the student's education and treatment around his or her specific transition needs. Transition drives programming in that all aspects of the youth's education and treatment plan should be focused on eventual success in the community. Transition planning should begin when the youth enters the facility and continue when he or she leaves the facility.

Recommended Transition Practices for Long-Term Facilities

The following practices are recommended for facilitating the transition of youths from jails, detention centers, and other short-term facilities to long-term correctional facilities and from long-term facilities to community schools or other programs:

- Staff awareness of and familiarity with county, state, local, and private programs that receive and/or send youths to and from long-term correctional facilities.
- To the extent possible, individualized preplacement planning prior to the transfer of youths from jails, detention centers, or other programs to long-term correctional facilities.
- The immediate transfer of youths' educational portfolios from jails, detention centers, or other programs to long-term correctional facilities.
- Provision of a variety of specific educational programs including: academics, vocational and job-related skills, social skills, independent living skills, and law-related education.
- Provision of a variety of support services including: work experience and placement, alcohol and drug abuse counseling, anger management, vocational counseling, health education, and training for parenthood.
- Use of outside resources such as speakers, tutors, mentors, vocational instructors, substance abuse counselors, employers, job counselors, and other volunteers to help youths transition to society.
- Student access to a resource center that contains a variety of materials related to transition and support.
- Special funds earmarked for transition and support services.
- Regularly held interagency meetings, cooperative inservice training activities, and crossover correctional and community

school visits to ensure awareness of youth and agency transition needs.

- A process for the immediate identification, evaluation, and placement of youths with disabilities. In best practice, the identification and evaluation is completed in the jail or detention center prior to incarceration in the long-term correctional facility.
- An IEP modified or developed for each student with disabilities that includes a transition plan.
- A transition plan developed with all students that includes their educational and vocational interests, abilities, and preferences.
- A transition planning team formed immediately upon student entry into a long-term correctional facility to design and implement the individual transition plan.
- The immediate transfer of educational records from long-term correctional facilities to community schools and other programs.
- Coordination with parole to ensure that a continuum of services, care, and monitoring is provided in the community.
- A community-based transition system for maintaining student placement and communication after release from a long-term correctional facility.
- A system for periodic evaluations of the transition program and all of its components.

5

Family Advocacy for Youths with Disabilities in the Juvenile Justice System

The Individuals with Disabilities Education Act is clearly predicated on family involvement in the education of youths with disabilities. Under IDEA, protections that are guaranteed to parents by law include the right to request an evaluation, involvement in the IEP process, participation in transition planning, and the right to mediation and due process. These same rights hold when their child is in the corrections system.

Parents' rights are not always acknowledged or implemented in the juvenile justice system. Providing parents with knowledge about the characteristics of disabilities and the educational services to which their children with emotional, behavioral, learning, and developmental disabilities are entitled under IDEA and Section 504 of the Rehabilitation Act is an ongoing challenge (Burrell & Warboys, 2000).

Once a youth enters the juvenile justice system, the barriers to reaching out to families in a meaningful and effective manner are considerable. These barriers include the following:

- Limited knowledge on the part of many professionals of how cognitive and mental health disabilities affect children's behaviors.
- The belief that these are bad children who *choose* to misbehave.
- The belief that children charged with delinquency *do not deserve* special education services.
- A juvenile justice system that is not designed to identify and provide services to troubled youths.
- A lack of processes and procedures for families to advocate for their children in court.
- The perception that families are the problem, not part of the solution (Garfinkel, 2000).

Families' Perceptions of the Justice System

From the time of arrest through adjudication, incarceration or placement, and transition back into the community, no pathway exists for parent involvement in the court process. It is the rare parent who manages to be heard and to prevail with regard to the rights of his or her child in court or in the corrections system. Families may not understand that some of their child's problematic behaviors are characteristics of a disability. They may be unaware that their child is entitled to educational and mental health services in school under IDEA or the Rehabilitation Act. Some families may be overwhelmed by their own needs and difficult life experiences, such as poverty, homelessness, or their own mental health problems. But most parents care deeply about their children and want the best for them. When parents appear to be angry or defiant, it may be because they have spent considerable time and energy in unsuccessful efforts to access educational, mental health, or other

social services for their child. Some parents have even been advised to bring charges against their child in delinquency court because that is the only way they can finally receive special education or mental health services (Bazelon Center for Mental Health Law, 2000).

For many youths in the juvenile justice system, a high proportion of whom are from families with multiple needs, the role of "family" may not be limited to one or both parents. It may also include a broader network of supportive individuals. Persons who extend this network can serve as possible advocates for children when their own parents are unavailable.

Most families whose children have been involved in delinquent behavior feel powerless, frustrated, and angry when their child is arrested or adjudicated. In some cases, they feel strongly that their child has been accused and charged in error. Typically, their children have a history of school failure, suspensions, and expulsions. Parents may be accustomed to hearing how problematic their child's behaviors are rather than what strategies might help to address the problems. They often feel shamed and unfairly judged by professionals in the schools, the courts, and the correctional system.

For parents who have scant resources or supports, their child's behaviors can be especially overwhelming. They may not be able to take time off from work to appear in court; they may not understand the court process and paperwork; and they may not even have access to legal representation. While some professionals are quick to characterize parents as being uninterested in their child, the opposite is often true. Unfortunately, most parents have no idea how to proceed.

Families' Perceptions of Professionals

Prosecutors, public defenders, judges, probation officers, and other juvenile justice personnel are not well informed about disabilities and entitlements for children with special needs. Attorneys often are not familiar with the mental health, cognitive, social, and aca-

demic issues unique to young offenders, especially those whose behaviors are impacted by poor impulse control, inability to comprehend the impact and consequences of their behavior, and other characteristics inherent in their disabilities. Because of the common perception that parents are the problem, professionals do not instinctively consider parents or extended family as resources (Garfinkel, 2000).

Many attorneys are unaware of federal mandates under IDEA and the Rehabilitation Act and the protections they offer their clients with disabilities up to age 22. An attorney may not be able to represent his or her client with full knowledge of the client's rights because the youth may not remember or acknowledge that he or she received or was eligible for special education services. It may be difficult to determine whether the client is competent to truly understand the nature of the charges or his or her role in the crime. Families have a difficult challenge in advocating for legal representation on behalf of their child. They may be told that it would be easier to plead guilty or waive their right to an attorney. These are never good options. Depending on the nature of the charges, their child can be represented by a public defender. However, the role of public defender is to represent the best interests of the child, not the parent. As a result, parents may have limited opportunities to introduce information about the impact of existing disabilities on their child's behaviors. Parents routinely complain that public defenders have only a few minutes to spend with their clients prior to entering court and do not have enough time to speak with parents to get their input on the deliberations.

Juvenile correctional facilities have yet to meet the educational, vocational, and mental health needs of youthful offenders. Corrections staff often have limited training about child development, mental health, and educational needs or the process for providing services to youths with disabilities. Too often, parents are told that the facility simply does not have the resources or the obligation to provide special education to their child. Most parents do not realize that they and their child do have a right to appropriate educational services.

Recommended Advocacy Practices

The following practices are recommended to assist families in advocating for their child in the juvenile justice system:

- Parents should collect as much information as possible about their child's school and mental health history and provide it to the court. This includes the youth's most recent IEP; educational, mental health, and medical evaluations and records; and strategies, treatments, and programs that have been effective with their child.
- Parents should verbally share information about the child's disability when the youth is first arrested and detained.
- In the absence of an IEP or 504 plans, any copies of documentation requesting evaluations or special services should be made available.
- Opportunities should be made to enable family members to access legal counsel and inform the attorneys about the child's disability and the educational, mental health, and related services he or she requires as part of case planning.
- Families should be referred to parent information resources and disability organizations that can assist them in becoming more effective advocates.
- Families should be provided with information in various formats about the court process. This should include information about the courts, terminology, timelines, and the legal rights of parents and their children.
- Technology such as telephone conferencing, transportation assistance, and other supports should be provided to help parents be more involved in advocacy for their child in the corrections system when they cannot be present.
- Training events for educators, attorneys, judges, and correctional professionals should include parent perspectives so that they understand parents' concerns and know how to interact positively with parents.

- Juvenile justice professionals who may be involved in planning for the child should be encouraged to work with parents in a more open and less judgmental manner.
- Professionals and parents should maintain contact with the child's home school district so that effective coordination of educational and other services can be monitored and maintained throughout the court process.
- When a family has not been involved in a youth's life, or is unable to be involved, efforts should be made to reach individuals who could be trained as parent surrogates.
- Special educators, social workers, probation and parole officers, psychologists, and psychiatrists, as well as parents when possible, should be involved in case planning so that they can provide information about what works for a child with specific disabilities.
- Comprehensive transition plans should be developed for the youth's return to the community.
- Transition planning should begin when a youth enters the justice system and should parallel his or her treatment or probation case plan (Garfinkel, 2000; Justchildren Project, 2000).

6 Conclusion

Youths with disabilities in the juvenile justice system are those whose intellectual, physical, learning, or emotional and behavioral disorders and academic skill deficits that entitle them to special education services. Although IDEA provides the right to a free and appropriate education for all youths with disabilities—including those who are incarcerated—the role of special education programming in corrections has only recently been recognized (Rutherford et al., 1985). This is significant, considering that students with mild to moderate mental retardation, learning disabilities, and emotional and behavioral disorders are far more prevalent in correctional facilities than in the public school population (Rutherford et al., in press).

It is important to keep in mind several basic concepts about youths with disabilities in the justice system (Rutherford et al., 2001). First, correctional special education is an emerging field. In fact, it was only in the past 15 years that incarcerated youth with disabilities began to receive attention. Second, there is often a difference in philosophy between corrections and education. The primary role of corrections is to provide public safety through confinement and punishment, whereas the role of education is to liberate. This paradox can be seen in the way education is either supported or inhibited in correctional facilities. While this population is challenging anyway, the added constraints of some institutional policies and practices make successfully treating incarcerated youths with disabilities even more difficult. Corrections and education personnel will find common ground when the central mission of the juvenile justice system remains rehabilitation. Third, there is no single "right" way to

provide special education services to youths in correctional facilities. The process of special education is as individualized as the students themselves. Therefore, the research and effective practices literature supports numerous recommended practices for providing education to these youths.

In the preceding discussion, we have presented recommended practices for preventing delinquency, providing special education services to youths in juvenile correctional facilities, establishing and maintaining transition services in both short-term and long-term facilities, and providing family advocacy for youths with disabilities in the juvenile justice system. Viewed together, these practices represent a set of processes and procedures for providing high-quality special education to youths in "the most restrictive environment" (Rutherford et al., 1985).

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